LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF SPECIAL OPERATIONS • SPECIAL INVESTIGATIONS DIVISION

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January 27, 1997

Captain Don Mauro
Los Angeles Sheriff's Department
Homicide Bureau
4700 Ramona Boulevard
Monterey Park, California 91754-2169

Dear Captain Mauro:

Re: S.I.D. File #: 100-8163/96-0431
L.A.S.D. File #: 096-13918-1463-011

The Special Investigations Division of the Los Angeles County District Attorney's Office has completed its review of the August 13, 1996, fatal shooting of Luis Lopez by Deputies Charles Fallon and Brian Steinwand. We have concluded that the shooting of Lopez was a lawful act in self-defense and defense of another, and accordingly, will take no further action.

The following analysis is based solely on reports prepared by the Los Angeles County Sheriff's Department, Homicide Bureau, received by this office on November 8, 1996, an oral presentation by Investigator Byron Wisberger, and an examination of 121 photographs taken at the scene of the shooting.[1] No independent investigation has been conducted by members of this office.

FACTUAL ANALYSIS

On Tuesday, August 13, 1996, at approximately 8:30 p.m., [redacted] was working at the La Taverna Bar located at 14918 Valley Boulevard, Bassett. Luis Lopez was inside the bar, armed with a handgun. When [redacted] asked Lopez to leave the bar, Lopez pointed the gun at [redacted] and fired. [redacted] fell to the floor, and Lopez stood over him and fired again. Lopez then left the bar, walking westbound on the south side of Valley Boulevard.

1. These photographs will be returned to the Sheriff's Department.



Criminal Courts Building
210 West Temple Street
Los Angeles, CA 90012-3275

Deputies Fallon and Steinwand monitored an "assault with a deadly weapon" call, and responded to the bar. They saw [redacted] lying on the bar floor, bleeding from several gunshot wounds. A witness to the shooting, [redacted], approached the deputies and informed them that he saw the person who assaulted [redacted] walking westbound on Valley Boulevard. He described [redacted]'s assailant as wearing dark pants and a white tee-shirt, said he was armed with a handgun, and "had a black jacket wrapped around his arm to conceal a pistol".

[redacted] got into the back seat of the deputies' unmarked vehicle. Both deputies were wearing green sheriff's 'raid' jackets. The word "Sheriff" is stenciled on the back in bright yellow, and the sheriff's insignia appears on the left chest and on the shoulders of both sleeves. The three drove westbound on Valley Boulevard. Approximately three blocks west of the bar, [redacted] pointed to Lopez. Lopez was walking westbound on Valley Boulevard, on the south side of the street. Fallon, the driver of the vehicle, drove into the number three lane of eastbound travel and stopped approximately 20 feet west of Lopez.

Both deputies stepped from their vehicle. Steinwand identified himself as a deputy sheriff, and ordered Lopez to "freeze". According to Steinwand, Lopez stopped, twisted his upper body around and "pointed a gun, which he was holding in his right hand, at him". Fearing for his safety, the safety of his partner, and the safety of Mr. [redacted], Steinwand fired three rounds from his handgun at Lopez.

Fallon related essentially the same scenario to investigators. He stated that [redacted] identified Lopez by stating, "That's him". Fallon could see that Lopez was wearing a white tee-shirt, and had a jacket wrapped around his arm. He stopped the sheriff's vehicle and yelled, "Sheriff's Department" at Lopez. Fallon stated that Deputy Steinwand ordered Lopez to get down to the ground. When Lopez turned and pointed his gun at him, Fallon fired a total of eight rounds at Lopez. According to both Fallon and Steinwand, Lopez then turned and started to walk westbound.

Lopez staggered approximately 10 feet and fell to the ground. His jacket and handgun fell a few feet from his body. Paramedics were called to the scene. They removed his pants in order to treat a leg wound. While removing his pants, 41 live rounds of .38 caliber ammunition fell from one of his pockets. Four expended .38 caliber shell casings also fell from one of his pants pockets. When investigators examined Lopez' weapon, they discovered that a portion of his black jacket was lodged between the hammer and the frame of the gun, as though the trigger had been pulled causing the hammer to fall, but the fabric of the jacket prevented the hammer from striking the bullet.

Lopez' five shot .38 caliber handgun was loaded with four live rounds of ammunition. The cylinder also contained one expended shell casing.

[redacted] died from his wounds on August 18, 1996. The autopsy disclosed that he suffered five gunshot wounds, bullets striking him in the chest, abdomen and both arms.

Lopez was transported to Queen of the Valley Hospital. He was pronounced dead at 9:17 p.m. On August 15, 1996, Irwin Golden, M.D., Deputy Medical Examiner, performed an autopsy on the body of Luis Lopez. He ascribed the cause of death to a gunshot wound of the chest. Lopez suffered two graze wounds, one to the left arm and one to the right buttock. The fatal wound struck Lopez in the back, perforating the thoracic aorta and the heart. The bullet came to rest in Lopez' left lung. A bullet also struck Lopez in the lower right leg. The bullets recovered from Lopez' lung and leg were matched ballistically to Deputy Fallon's nine-millimeter Beretta handgun.

Lopez' post-mortem blood was analyzed. His blood-alcohol level was determined to be .18%. .27 micrograms per milliliter of benzoylecgonine, a cocaine metabolite, was also detected.


[redacted]

CONCLUSION

California law permits the use of deadly force in self-defense or in the defense of another if it reasonably appears to the person claiming the right of self-defense or the defense of another that he actually and reasonably believed that he was in imminent danger of great bodily injury or death. People v. Williams (1977) 75 Cal. App. 3d 731.

In protecting himself or another, a person may use all force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. CALJIC 5.30. 5.32.

Where the peril is swift and imminent and the necessity for action immediate, the law does not weigh into nice scales the conduct of the assailed and say he shall not

be justified in killing because he might have resorted to other means to secure his safety. People v. Collins (1961) 189 Cal. App. 2d 575.

As Deputies Fallon and Steinwand approached Lopez, they were aware of several facts. They knew that he had just shot a man. They also had reason to believe that he was still armed. An eyewitness, Mr. [redacted], described Lopez' clothing, said that Lopez was holding a gun in his right hand, and added that his right hand was covered with a jacket. Rather than stop and lie on the ground as ordered, Lopez chose to turn toward the deputies and point his handgun at them. It is the opinion of this office that the deputies had no other reasonable alternative but to shoot him. We find that this shooting was a lawful act in self-defense and defense of another. We will take no further action, and are closing our file.

Very truly yours,

GIL GARCETTI
District Attorney

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Assistant District Attorney

By
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c: Deputy Charles Fallon #[redacted]
Deputy Brian Steinwand #[redacted]

